

MINUTES
IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
PROGRAM

March 30, 2007

COMMISSIONER'S CONFERENCE ROOM
IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET
DES MOINES, IOWA

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 10:02 A.M. A quorum was present. Roll call was taken with the following Board members present:

Delia Meier (via telephone)
Doug Beech
Jim Holcomb
Liz Christiansen (for Richard Leopold)
Stephen Larson (for Michael Fitzgerald)
Jeff Robinson

Also present were:

David Steward, Attorney General's Office
Scott Scheidel, Program Administrator
Lacey Skalicky, Program Administrator's Office
James Gastineau, Program Administrator's Office
Elaine Douskey, Iowa Department of Natural Resources

APPROVAL OF PRIOR BOARD MINUTES

The minutes from the February 23, 2007 meeting were reviewed. Mr. Holcomb moved to approve the minutes, Ms. Christiansen seconded the motion, and by a vote of 5-0, the minutes were approved.

CLOSED SESSION

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. Therefore no closed session convened.

PUBLIC COMMENT

Ms. Voss requested any comments from the public present. There were no comments at this time.

BOARD ISSUES

A. Legislative Update

Mr. Scheidel presented to the Board a copy of Senate File 499 and House File 792, as introduced in the Legislature. The Board members had been previously copied on the drafts by electronic mail for discussion. The legislation involved the implementation of the Federal Energy Policy Act by the Iowa Department of Natural Resources (DNR), as well as, removing the authority to certify groundwater professionals and UST installers and inspectors from the Iowa UST Fund Board statute and placing that authority within the statute governing the DNR. He stated the bill was amended to include language developed at the request of the Petroleum Marketers and Convenience Stores of Iowa (PMCI) with regard to no further action (NFA) claims. More specifically, the bill would allow sites with old releases that have received NFA certificates but now needed to be re-addressed to have their UST Fund claims reopened rather than using a NFA claim with a limit of \$100,000. Mr. Scheidel explained that the parties involved discussed and agreed that the claims should be reopened with the UST Fund working directly with the DNR, having released the site owner with a NFA certificate, where a condition that threatens public health and safety still existed. The bill would be amended to reflect such and would require a new 28E to clearly outline the terms and the instances where NFAs should be considered for additional assessment or work.

Another change added to the bill, involved the provision that allows the Board to remove upgraded underground storage tanks (UST's); more directly, the statute does not prohibit the Board from paying for the removal of upgraded UST's. It had always been a Board policy not to remove upgraded UST's. The language in the current bill emphasized that the Board had the authority to pay for the removal of upgraded UST's, however it did not state the Board "shall" pay for their removal. The Administrator's Office had included a statement that if upgraded UST's were removed from a site, "Installation of a new underground storage tank shall be prohibited on the property for a period of two years." The PMCI representatives and the Petroleum Marketers Management Insurance Company representatives opposed that statement, and would amend the bill to strike it. The Administrator agreed because the language over all did not place an affirmative duty on the Board.

B. CRPCA 0612-39 Galva

Mr. Scheidel presented to the Board the background regarding a request for proposal (RFP) for a site in Galva, Iowa. The site is one of two sites owned by the Double Circle Farm Supply, which entered into an agreement with the DNR to run the claim due to a settlement paid to DNR from Double Circle Farm Supply. The DNR paid the Iowa UST Fund for the remaining co-payment on both sites, and for the cost to manage the claim for the site.

Of the eight proposals received, one proposal from Geode Environmental was recommended based on the combined total score of its technical merit and cost proposals. The work to be completed would include further site assessment, free product recovery, evaluation of the risks based on the assessment and a determination of the corrective action alternatives. The

implementation of those alternatives could be performed also under the same contract or the Board may choose to re-bid for those activities.

Ms. Meier made a motion to approve the selection of Geode Environmental for the project, and Mr. Beech seconded the motion. The selection was approved by a vote of 5-0.

C. Potential 28E with DNR for Legal Service Bureau Position

Mr. Scheidel updated the Board regarding a request from the DNR to assist with funding of a new position in the Legal Services Bureau. The position would assist the Board with LUST issues among other duties. The DNR was awaiting approval from the Attorney General's Office to add the position to their staff, and once approved the DNR will provide the Board with a formal proposal. Dave Steward stated that he discussed the position, based on the details provided by Tim Hall from the DNR, with his division director and they submitted the information to Deputy Attorney General Pottorf for approval. Mr. Steward stated he would follow up with her in the near future about the position.

Tim Hall, Bureau Chief of the UST/LUST sections of DNR, discussed with the Board their need to acquire solid funding for this particular legal position within the Department to include legal work for the UST/LUST sections of the DNR. He stated they were seeking to fund ½ of the position, as a back up to the grants received from the Environmental Protection Agency (EPA), which were often received but never guaranteed. In return the attorney position would assist the Board with UST/LUST issues. Mr. Hall explained that once approval was received from the Attorney General's Office, a 28E agreement could be drafted and executed between the Board and the DNR. Mr. Hall stated that the position was an Attorney I position which earned approximately \$65,000 (mid-range) including benefits, and if approved by the Attorney General's Office, a 28E agreement could be drafted and presented to the Board at the April meeting. The other ½ of the funding for the position would be funded by the Contaminated Sites and Brownfields sections of the DNR.

Mr. Scheidel emphasized the benefit of legal assistance when requesting cooperation from UST Fund claimants.

D. DNR Update

Elaine Douskey from the Department of Natural Resources (DNR) passed out a summary of the teleconferences that have been completed since their inception in 2004. She noted that they had taken 422 sites through the corrective action conference process, and of those 71% entered into memoranda of agreement (MOA's), and 26% of the sites were resolved without MOA's. Another 2% had scheduled follow-up meetings, and only 1% had failed to reach an agreement. Another chart on the worksheet showed the resulting plans of action for sites where MOA's were reached. Ms. Douskey stated that 36% of those sites entered into a Tier 3 assessment, while 32% entered into expedited corrective action, and the final 32% used a remediation system. Ms. Douskey stated she felt the graph and chart showed clearly the direction of LUST sites, and she expected to continue to update the charts annually to follow the trend of the remediation.

Ms. Douskey informed the Board that they sent out letters to stakeholders regarding the rules that DNR would have to write as a result of the pending legislation at the Capitol. She stated the inspection database was developing quite nicely. The installer tracking system was up and running to track installer certification, and they may include UST closure certifications in that system. Also an inspection form draft was being tested, and she hoped that a web address might be available for public viewing by the April meeting.

Lastly, Ms. Douskey stated she and DNR staff had attended the UST National Conference in March. She stated that the sessions she had attended at the conference were centered on the Energy Act, and the guidelines for implementation would be released within another month. She was concerned about the number of people at the conference who did not feel the UST self-inspections were appropriate. Mr. Scheidel agreed stating that he and Elaine defended their concept, and Elaine stated that EPA staff had been very understanding about the issues, while trying to accommodate all States' concerns. Also, Ms. Douskey stated that the Iowa DNR's third party inspector program was setting the pace among states to show how things can be done.

PROGRAM BILLINGS

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services\$ 118,222.00
Consulting Services – April 2007 (\$65,638.00)
Claims Processing Services – April 2007 (\$52,584.00)
2. Attorney General's Office\$9,215.00
Services provided for Underground Storage Tank Program
February 2007 billing

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Ms. Christiansen and a second by Mr. Holcomb, the billings were approved by a vote of 5-0.

MONTHLY ACTIVITY REPORT

Mr. Scheidel noted that the February activity reports, financial reports and opt-in reports were in the Board packets. He noted that all aboveground storage tank (AST) claims were closed, however one appeal to a denial for AST benefits was pending a hearing with the Administrative Law Judge. In addition, he summarized the fiscal year 2006 audit with the State Auditor's Office. The auditors again recommended the Board consider amending and approving the Iowa UST Fund budget throughout the fiscal year as significant changes become apparent. Mr. Scheidel stated that he had informed the Board of the suggestion after the last audit, and the Board did not consider the revisions necessary. Additionally, Mr. Scheidel informed the Board of a change in the Government Accounting Standards Board in dealing with liabilities. The auditors believed the change would apply to the Iowa UST Fund, and they would likely begin to consider Iowa UST Fund reported reserve balances as "future liabilities" for the agency audit reports going forward.

ATTORNEY GENERAL'S REPORT

Mr. Steward stated that he had nothing to report to the Board at this time.

CLAIM AUTHORITY

Mr. Gastineau presented the following claim authority requests:

1. Site Registration 8602384 – Taylor Oil Company, Inc., Glenwood

This site was classified as low risk for the groundwater vapor to potential enclosed space pathways and the soil vapor to potential enclosed space pathways. Additional monitoring should result in the reclassification to no further action (NFA) within a few years. Monitoring would include groundwater sampling and re-sampling the soil source location. Previous authority to \$75,000 had been granted, of which \$82,281.61 was approved to date. Additional authority to \$105,000 was requested for a site monitoring report (SMR).

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

2. Site Registration 8811334 – Mississippi Grande, Inc., Pleasant Valley

This was a third Board report for a high risk site. The site was high risk for the ingestion pathways for eleven drinking water wells and two non-drinking water wells. The water lines from the water wells to the associated properties were plastic. The three nearest drinking water wells and non-drinking water well would be plugged and the properties would be connected to city water. These actions would remove the high risk plastic water line receptors and the most limiting ingestion receptors. An over-excavation would be completed to address the remaining water wells and the high risk septic sewer system. High risk monitoring would be completed for several years following the excavation until the site can be reclassified. Previous authority to \$448,317.65 had been granted, of which \$171,737.65 was approved to date. Additional authority to \$571,737.65 was requested for a site monitoring report (SMR) and implementation of the over-excavation and receptor removal.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Larson seconded the motion. Approved 5-0.

3. Site Registration 8710665 – Taylor Oil Company, Inc., Missouri Valley

This site was low risk for the groundwater ingestion to protected groundwater source pathway and the groundwater vapor to enclosed space pathways. Free product had recently reappeared. Previous authority to \$75,000 had been granted, of which \$79,705.29 was approved to date. Additional authority to \$165,000 was requested for a SMR and possible free product recovery (FPR).

A motion to approve the claim authority request until was submitted by Ms. Christiansen and seconded by Mr. Beech. Motion passed by a vote of 5-0.

4. Site Registration 8915594 – Douglas Heidebrink, LeMars

This site was classified as no action required (NAR) by RBCA guidelines, but free product had been present for at least 16 years and required continuous removal. The free product levels appeared to have decreased, yet removal to acceptable levels might take several more years of hand bailing or the installation of a remedial system. Previous authority to \$75,000 had been granted, of which \$83,803.76 was approved to date. Additional authority to \$120,000 was requested for free product recovery (FPR).

A motion to approve the claim authority request until was submitted by Mr. Beech and seconded by Ms. Christiansen. Motion passed by a vote of 5-0.

5. Site Registration 8600389 – Susemihl Amoco, LeMars

This site was classified as high risk for vapor pathways only, and a soil vapor extraction system had been installed to eliminate the free product on the site and lower dissolved levels below site-specific target levels (SSTL's). Previous authority to \$75,000 had been granted, of which \$82,090.01 was approved to date. Additional authority to \$140,000 was requested for a SMR, FPR, and implementation of a corrective action design report.

A motion to approve the claim authority request until was submitted by Mr. Larson and seconded by Mr. Holcomb. Motion passed by a vote of 5-0.

6. Site Registration 8602326 – Union County Shop, Creston (UPDATE)

This Board report was presented to the Board in February and was deferred until March to allow for progress regarding the zoning classification of the site, which lay within Union County but outside of the City of Creston, thereby defaulting to a residential zone classification even though the site property lay within a heavily industrial area. Mr. Gastineau reported to the Board that with updated sampling and the DNR acceptance of a statement from Union County that the property be considered non-residential the result was a withdrawal of the request for additional funding at this time. Also, DNR had noted that when the County request was granted the site would be reclassified to low risk. Union County would then begin the environmental covenant paperwork to reclassify the site to a no action required (NAR) status. No additional funding was requested.

CONTRACTS ENTERED INTO SINCE THE FEBRUARY 23, 2007 BOARD MEETING

Mr. Scheidel noted that the Board had entered into the following three contract extensions (1 yr) for community remediation projects since the last Board meeting.

CRPCA 0312-35 Sexton & Wesley with Array Environmental
CRPCA 0312-36 College Springs & Coin with Array Environmental

OTHER ISSUES

Mr. Scheidel stated the next meeting of the Iowa UST Fund Board was scheduled for Friday, April 27, 2007 at 10 A.M. He noted that the Board terms for Cathy Rottinghaus and Delia Meier were set to expire on April 30, 2007. He stated that the new appointees were Jacqueline Johnson of Edgewood and Nancy Lincoln of Glenwood.

Also, Mr. Scheidel noted that he and Mr. Gastineau, along with DNR representatives, would attend the annual Environmental Protection Agency (EPA) Region VII meeting in Kansas City on April 11th and 12th.

CORRESPONDENCE AND ATTACHMENTS

Ms. Voss asked if there was any further business, and there being none, Ms. Meier moved to adjourn, and Mr. Larson seconded the motion. By a vote of 5-0, the Board adjourned at 10:42 A.M.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott M. Scheidel". The signature is written in a cursive, flowing style.

Scott M. Scheidel
Administrator